

REMARKS

Claims 12, 23 and 24 have been amended by this paper.

Claims 12, 13, 15-20 and 23-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,749,301 to Peckar. The Examiner's rejections are respectfully traversed.

The Peckar reference discloses a container 10 (e.g., a cigar box) having a plurality of wall members 12, 14, 16 positioned to define an inner storage cavity 18, as shown in Fig. 1. A flap member 24 is hingedly connected to one of the wall members along a hinge line 26. The flap member 24 includes a flap portion 28 and a connecting portion 30. A piece of magnetic sealing material 32 is positioned on the flap portion 28 and aligned to engage a corresponding piece of magnetic sealing material 34 positioned on the wall member 12.

Accordingly, the Peckar reference discloses a container having a flap member, wherein the flap member includes a connecting portion for covering the container cavity and a piece of magnetic sealing material positioned on the flap portion for engaging a corresponding piece of magnetic sealing material positioned on the front wall of the container.

However, as stated at paragraph 8 of the present application, the Peckar reference fails to provide "a secure container barrier for perishable items." In particular, the Peckar reference does not disclose a method for forming a container having an improved seal between the flap and the container aperture.

While the Peckar reference discloses a container having a magnetic sealing material attached thereto, the Peckar reference does not disclose the concept of securing a first portion of ferrite material to a substrate such that the first portion of ferrite material generally entirely surrounds the aperture and securing a second portion of ferrite material to the flap such that the second portion of ferrite material is positioned generally entirely around a periphery of the flap, wherein the first portion of ferrite material is aligned with and has a magnetic attraction to the second portion of ferrite material.

Thus, the container claimed in the present application is easy to open and close due to the

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ferrite material closure (rather than an adhesive or other closing material) and provides an optimum air, moisture and vermin barrier.

Furthermore, the prior art cited in the Office action provides no motivation to one skilled in the art to modify the container disclosed in the Peckar reference into the container as claimed in the present application.

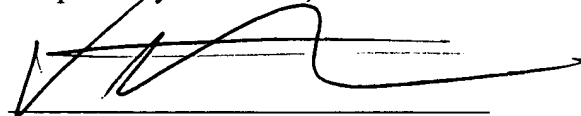
Accordingly, Applicants submit that the container of the present application is not obvious in view of the Peckar reference.

Claims 14 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Peckar reference in view of U.S. Patent No. 6,217,405 to Burrows. The Examiner's rejections of claims 14 and 21 are respectfully traversed for the reasons expressed above.

Accordingly, it is submitted that the application is in condition for allowance and formal notice thereof is respectfully requested.

Applicants hereby authorize the Commissioner under 37 C.F.R. § 1.136(a)(3) to treat any paper that is filed in this application, which requires an extension of time, as incorporating a request for such an extension. The Commissioner is authorized to charge any additional fees required by this paper or to credit any overpayment to Deposit Account No. 20-0809.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Victor J. Wasylyna', is written over a horizontal line.

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